

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

<p><b>MARY ANN LEWIS, an individual,</b></p>	<p>)</p>	<p><b>CIV- F-05-0459 AWI SMS</b></p>
	<p>)</p>	
<p><b>Plaintiffs,</b></p>	<p>)</p>	<p><b>ORDER CLOSING CASE IN</b></p>
	<p>)</p>	<p><b>LIGHT OF PLAINTIFFS'S</b></p>
<p><b>v.</b></p>	<p>)</p>	<p><b>RULE 41(a)(1)(ii)</b></p>
	<p>)</p>	<p><b>VOLUNTARY DISMISSAL</b></p>
<p><b>UNUM LIFE INSURANCE COMPANY</b></p>	<p>)</p>	<p><b>WITH PREJUDICE</b></p>
<p><b>OF AMERICA, et al.,</b></p>	<p>)</p>	
	<p>)</p>	
<p><b>Defendants.</b></p>	<p>)</p>	
	<p>)</p>	

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On July 24, 2006, Plaintiffs filed a stipulation for dismissal of this case with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii). The notice is signed by counsel for Defendants and counsel for Plaintiff.

Rule 41(a)(1), in relevant part, reads:

an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim.

Rule 41(a)(1)(ii) thus allows the parties to dismiss an action voluntarily, after service of an answer, by filing a written stipulation to dismiss signed by all of the parties who have appeared, although an oral stipulation in open court will also suffice. Carter v. Beverly Hills Sav. & Loan Asso., 884 F.2d 1186, 1191 (9th Cir. 1989); Eitel v. McCool, 782 F.2d 1470, 1472-73 (9th Cir. 1986). Once the stipulation between the parties who have appeared is properly filed or made in

open court, no order of the court is necessary to effectuate dismissal. Fed. R. Civ. Pro. 41(a)(1)(ii); Eitel, 782 F.2d at 1473 n.4. Because Plaintiff has filed a stipulation for dismissal of this case with prejudice under Rule 41(a)(1)(ii) that is signed by all parties who have made an appearance, this case has terminated. See Fed. R. Civ. Pro. 41(a)(1)(ii); In re Wolf, 842 F.2d 464, 466 (D.C. Cir. 1989); Gardiner v. A.H. Robins Co., 747 F.2d 1180, 1189 (8th Cir. 1984); cf. Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997) (addressing Rule 41(a)(1)(i) dismissals).

Therefore, IT IS HEREBY ORDERED that the Clerk is ordered to close this case in light of the parties filed and signed Rule 41(a)(1)(ii) Stipulation Of Dismissal .

IT IS SO ORDERED.

**Dated: July 26, 2006**  
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**/s/ Anthony W. Ishii**  
UNITED STATES DISTRICT JUDGE